

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 119
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 119 entitled:

"A BILL FOR AN ACT RELATING TO PAYMENT OF RENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require landlords to disclose in writing a tenant's ability to establish a new due date for rent payment, if the tenant receives public assistance; and
- (2) Establish a cap of five percent on late rent payment fees.

Your Committee received testimony in support of this measure from the Governor's Coordinator on Homelessness and Department of Commerce and Consumer Affairs Office of Consumer Protection. Your Committee received comments on this measure from the Hawai'i Association of REALTORS.

Your Committee finds that existing law requires a landlord to honor a tenant's request to establish a new due date if the tenant is receiving public assistance. This measure requires this right to be disclosed in writing to a tenant, which will ensure that a tenant receiving public assistance is fully aware that the tenant



has the ability to move the due date to a period after which the tenant receives a public assistance payment.

Your Committee further finds that existing law does not set limitations on the amount of late fees that a landlord may charge a tenant, which has resulted in a wide variance in amounts charged and has led to outrageous abuses. According to testimony from the Office of Consumer Protection, the Office has been informed by some tenants that the tenants have been subject to late fees of more than twenty percent for being one day late. Other tenants have reported a fee of \$100 for each day of late payment. According to testimony from the Governor's Coordinator on Homelessness, service providers have shared reports of homeless individuals and families being charged excessive late fees, and later being evicted as a result of those accumulated fees.

This measure therefore requires that when a rental agreement provides for a late charge payable for rent not paid when due, the late charge shall be capped at five percent of the amount of rent due. Your Committee notes that Maryland, Oregon, and Delaware all set late fee limitations at five percent. The five percent limitation is also consistent with existing Hawaii law governing late charges on consumer credit sale contracts and correlates with the late fees that numerous mortgagee lenders impose on mortgagor borrowers.

Your Committee has heard the testimony requesting a delayed implementation to provide sufficient time for the update of all relevant rental agreement forms. Although your Committee understands these concerns, your Committee believes it is important for the cap on late fees to be implemented as soon as possible, as your Committee is deeply concerned that a delay in implementing the cap will have a negative effect on vulnerable tenants with unscrupulous landlords or rental agents. Your Committee notes that interested parties indicated a willingness to continue discussions regarding necessary updates to rental agreement forms. Further discussion on the implementation date of this measure may be warranted, and may require the Hawaii Association of REALTORS and the Real Estate Commission to notify members of the upcoming changes.

Finally, your Committee notes that once the effective date of this measure has been determined, it is your Committee's intent



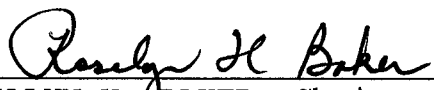
for the requirements of this measure to apply to all new rental agreements and all rental agreement renewals entered into on or after the effective date of this measure.

Accordingly, your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (2) Clarifying that this measure shall apply to all rental agreements and all rental agreement renewals entered into on or after the effective date of this measure.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 119, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 119, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB 119	Committee Referral: CPH	Date: 3/1/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les				/
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.				/
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Clarence K. Nishihara</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes